

REMARKS/ARGUMENTS

Claims 18 and 23-50 are active. Claim 18 has been revised to remove the terms solid and liquid carriers and use the original claim term "aqueous medium" which appears in original Claim 2. The term "dispersant" has also been deleted from this claim.

New Claims 47-50 track original Claim 1 and cancelled Claims 19-21. Claim 47 is identical to original Claim 1 and so should not be withdrawn from consideration. Claims 48-50 include limitations to solid carriers, which are described in the specification in sections [0021] and [0022]. These claims refer to solid carriers which the Examiner indicated would subject them to Restriction. Therefore, they have been placed in a separate set of claims depending from Claim 47. Accordingly, the Applicants do not believe that any new matter has been added. Favorable consideration of this Amendment and allowance of this application is respectfully requested in view of the following remarks.

Withdrawal of Prior Claims on Basis of Original Presentation

The Office Communication of March 24, 2006 indicates that Claims 18-46 were withdrawn from consideration as being directed to a non-elected invention. However, the communication does not provide any reasons explaining why these claims were considered to fall outside the elected group as required when form paragraph 8.26 is used (see MPEP 821.04 on page 800-63 of the MPEP, Rev. 3, August 2005).

The Applicants previously elected Group I, Claims 1-13, directed to a product (plant growth regulator) containing cinnamic acid. The new claims fall within the same category of invention (products and compositions containing cinnamic acid). Should the Office disagree, the Applicants respectfully request that the written record provide specific reasons why the new claims do not fall within the previously elected Group I.

On March 29, 2006 the Applicants discussed this issue with Examiner Nguyen who indicated that new independent Claim 18 referred to solid carriers as well as optional dispersants which were deemed not to be part of the originally elected subject matter.

The Applicants traverse this holding for the following reasons. First, original Claim 1 is directed to any plant growth regulator composition containing cinnamic acid and does not exclude either liquid or solid compositions. Second, dispersants are explicitly claimed in the original claims, such as in Claim 3, and therefore clearly fall within the previously elected subject matter.

Notwithstanding the above traversal, the Applicants have now amended Claim 18 to conform to the Examiner's request and Claim 18 has been amended to delete its reference to solid carriers and dispersants. On the other hand, the Applicants have added Claims 47-50 to specifically cover compositions containing solid carriers. Should the Examiner believe that these specific claims directed to solid carriers fall outside of the elected group, then these specific claims may be withdrawn from consideration and the remaining claims depending from Claim 18 examined on the merits, see MPEP 821.

Restriction/Election

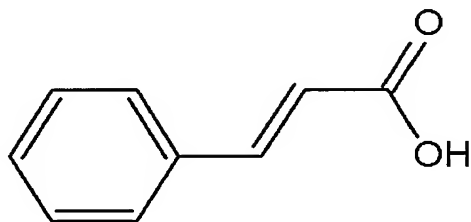
The Applicants previously elected with traverse Group I, Claims 1-13, directed to a plant growth regulator. The claims of Groups II-IV which are respectively directed to a method of making (II) and method of use (III) for the plant growth regulator, as well as dwarfing plant (IV) have been withdrawn from consideration. Upon an indication of allowability for a claim in the elected Group I, the Applicants respectfully request rejoinder and allowance of non-elected claims which depend from, or otherwise incorporate the limitations of, said allowed claim.

Rejection—35 U.S.C. §112, second paragraph

Claim 9 was rejected under 35 U.S.C. 112, second paragraph, as indefinite. This rejection is moot in view of the cancellation of Claim 9.

Rejection—35 U.S.C. §102

Claims 1-5, 9 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson et al., U.S. Patent No. 3,157,964. Ferguson does not anticipate the present claims, because it is directed to compositions for supplying moisture to plants which may optionally contain an **addition polymer** containing cinnamic acid (in copolymerized form). On the other hand, the cinnamic acid of the present claims is not in copolymerized form and has the following formula:



The copolymerized cinnamic acid of the prior art has lost its identity in the copolymer and is quite distinct from the non-polymerized cinnamic acid of the present claims. Accordingly, the Applicants respectfully request that this rejection be withdrawn.

Rejection—35 U.S.C. §103

Claims 6-8 and 11-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al., U.S. Patent No. 3,157,964. Ferguson has been addressed above and does not disclose free cinnamic acid, but only cinnamic acid which has been incorporated into an addition copolymer. Since the cited prior art does not disclose, suggest or provide a

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reasonable expectation of success for the present invention, this rejection may now be withdrawn.

CONCLUSION

In view of the above amendments and remarks, the Applicants submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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